

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

C.A.NO. 09-11705-NG

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JONATHAN GREEN	)
	)
	)
Plaintiff.	)
	)
	)
v.	)
	)
CITY OF BOSTON; EDWARD DAVIS, in his	)
capacity as CHIEF OF THE BOSTON POLICE	)
DEPT; TIMOTHY MCCARTHY, individually	)
and in his official capacity as an Employee,	)
Agent, and/or Officer of the BOSTON POLICE	)
DEPARTMENT	)
Defendants.	)
	)

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**MOTION IN OPPOSITION TO DEFENDANT TIMOTHY MCCARTHY'S MOTION  
FOR SUMMARY JUDGMENT**

NOW comes the Plaintiff, Jonathan Green, and pursuant to Fed.R.Civ.P.56 request that this Honorable Court **DENY** summary judgment in the Defendant's favor, as the Plaintiff has demonstrated an issue of fact as to whether Defendant Timothy McCarthy committed excessive force when he slammed the Plaintiff's head against a police cruiser after he was placed in handcuffs. This issue of fact is created by the Plaintiff's own testimony, stating he is **100% certain** that it was the Defendant, Timothy McCarthy who perpetrated this act upon him. The Plaintiff also submits the affidavit of the undersigned in support of his motion.

Respectfully Submitted,  
JONATHAN GREEN  
By his Attorney,

/s/ Gordon W. Spencer  
Gordon W. Spencer, Esq.  
945 Concord Street  
Framingham, MA 01701  
BBO# 630488  
(508) 231-4822

Dated: June 11, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing motion upon all counsel of record, via electronic transmission, this 11<sup>th</sup> day of June, 2012.

/s/ Gordon W. Spencer